APPENDIX "A"

In the

United States Court of Appeals

For the Seventh Circuit

SEPTEMBER TERM, 1968 — SEPTEMBER SESSION, 1968

No. 16861
UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
SAM JOSEPH BATTAGLIA,
Defendant-Appellant.

Appeal from the United States District Court for the Northern District Division.

March 17, 1969

Before HASTINGS, *Senior Circuit Judge,* and KILEY and FAIRCHILD, *Circuit Judges.*

HASTINGS, *Senior Circuit Judge.* In May, 1966, defendant Sam Joseph Battaglia was indicted by a federal grand jury charging violations of Section [redacted], Universal Military Training and Service Act, Title 50 App., U.S.C.A. § 462 (the Act).

Count I charged that on or about February 25, 1964, defendant willfully and knowingly made false statements to his local draft board, *i.e.*, that he was then living with his wife and that he had two children who were then living with him in his home. Count II charged that on or

about March 30, 1966, defendant willfully and knowingly made substantially the same false statements to his local draft board as in Count I. Count III charged that on or about December 5, 1964, defendant willfully and knowingly failed, neglected and refused to perform a duty required of him under §§ 451-473 of the Act, *i.e.*, to notify his local draft board of a change in circumstances which "might" have resulted in a change of his draft status, that is, his marriage had been dissolved on November 24, 1964.

The case was tried to the court, without the intervention of a jury. Defendant offered no evidence in the trial. The court found defendant guilty on Counts I and III and acquitted him on Count II. Defendant was sentenced to a term of four years on each of Counts I and III to run concurrently. Subsequently, the court ordered the sentences reduced to two years, pursuant to 18 U.S.C.A. § 4028(a)(2). Defendant appeals. We affirm.

Defendant first contends the evidence introduced by the Government was not sufficient to establish his guilt beyond a reasonable doubt under Counts I and III; therefore, that the court erred in denying his motions for acquittal. We must consider the evidence in the light most favorable to the Government. *Glasser* v. *United States*, 315 U.S. 60, 80 (1942).

The evidence reveals to our satisfaction that prior to November, 1963, defendant lived with his wife and two children at 1440 N. First Avenue, Melrose Park, Illinois; he and his wife were separated in November, 1963, and he moved in with his parents in Oak Park, Illinois. Thereafter, he lived at various other addresses while his wife Elaine and his two children continued to live

at the Melrose Park address for several years. Elaine was granted an uncontested divorce from defendant on November 24, 1964 by decree of the Circuit Court of Cook County, Illinois. Defendant was married to his second wife, Kari, on March 27, 1966. On or about February 25, 1964, defendant willfully and knowingly falsified his answers on a questionnaire to his local draft board that his wife and two children were living with him at the Melrose Park address. Further, defendant willfully and knowingly failed, neglected and refused to notify his local draft board that his first marriage had been dissolved by divorce on November 24, 1964.

We have considered: the testimony of FBI Agent Dallman; defendant's former neighbor Joanne Anderson; his friend Beverly Preston; the district supervisor of defendant's local draft board, Dorothy S. Steinert; relevant exhibits in defendant's selective service file; pretrial motions, trial motions and post trial motions; exhibits and supporting affidavits tendered by defendant; as well as reported testimony of other witnesses. While of course not obliged to do so, defendant made no effort to refute the Government's case. Based on our examination of the record as a whole, we find and hold that the trial court was justified in finding defendant's guilt established beyond a reasonable doubt and did not err in denying defendant's motions for acquittal. *Glasser* v. *United States, supra; United States* v. *Adams*, 7 Cir., 403 F. 2d 840 (1968); *United States* v. *Sosa*, 7 Cir., 379 F. 2d 525, 527 (1967), *cert. denied*, 389 U.S. 845.

Defendant next asserts the trial court erred in denying his motion to dismiss the indictment based on the unconstitutional vagueness of the statute as applied to Count III and erred in denying his motion for arrest of judg-

ment. Defendant focuses his attack on the use of the words "might change a registrant's status" as reflected in his willful and knowing failure to report the fact that his marriage was dissolved by divorce in November, 1964. He contends that no applicable statute or regulation uses the word "might" as a governing standard. Defendant is in error.

32 C.F.R. § 1625.1 provides:

> "(a) No classification is permanent.
>
> "(b) Each classified registrant * * * shall, within 10 days after it occurs, report to the local board in writing *any fact that might result in the registrant being placed in a different classification* such as, but not limited to, any change in his occupational, marital, military, or dependency status, or in his physical condition." (Emphasis added.)

We find nothing vague or speculative in this regulation. The local boards are necessarily left with a discretionary power to be exercised under a variety of circumstances.

Defendant was not mislead or uncertain about his duty to keep his local board advised concerning his status. Witness his false statement shown under Count I. Further, there is the undisputed testimony of his girl friend Beverly Preston: "I had asked him why he hadn't been drafted yet, or why he wasn't in the Army, and he said that the Draft Board didn't know that he wasn't married."

Defendant charges he was denied equal protection of the laws as that right is guaranteed in the due process clause of the fifth amendment to the Federal Constitution. Specifically, he vigorously contends "that the action of the United States Attorney in bringing this prosecution and obtaining conviction, was arbitrary and discrimina-

tory'' in the face of ''the traditional practice of the federal government in 'draft' cases''. He asserts that where the defendant manifests a willingness to enter the Armed Forces, it is the practice of the Government to drop the prosecution ''no matter what the alleged violation was'' and give the defendant an opportunity to serve in the military service.

Defendant repeatedly stresses the fact, as shown by the Government's evidence, that from the time of his first arrest to the present he has consistently expressed his willingness to serve. Defendant correctly cites authority showing this practice has been followed in many cases. The trial court made reference to this in a colloquy with Government trial counsel and inquired whether the prosecution was being pressed because defendant's father was a reputed gangster. Defendant overstates the situation.

It is conceded that defendant could not be inducted into military service while his selective service file was in the hands of the United States Attorney; or while the instant criminal charge was pending; or while the subject judgment of conviction was unsatisfied of record. The trial court was fully advised of this, yet it declined to dismiss the prosecution and remove the record of conviction. In this refusal, defendant charges the trial court prejudicially erred.

In passing, we note that a similar plea was addressed to the Department of Justice. It made an independent examination of the file in the case and concluded the prosecution was not improper, and the case should continue to trial and disposition by judicial procedure. It is clear to us the United States Attorney complied with a consistent policy approved by the Department of Justice.

In considering the frequent cases where a defendant is granted the option of submitting to induction or facing prosecution, we usually find it applied when the violation charged is having refused to submit to an order to report for induction or having refused induction itself. By contrast, the instant case is concerned with false representation or the refusal to give information. We conclude that defendant has not been denied his constitutional rights in this respect.

We are not persuaded by defendant's contention that he was somehow denied due process of law because the Government "seized" his selective service file from his local draft board and thereby prevented him from being declared delinquent and processed for induction as a delinquent.

Defendant contends the trial court erred in admitting testimony, over objection, of oral statements made by him. He claims this is in violation of the standards set out in *Miranda* v. *Arizona,* 384 U.S. 436 (1966) and is inconsistent with Rule 16, Federal Rules of Criminal Procedure, 18 U.S.C.A. The testimony in question was that of Agent Dallman describing the arrest of defendant and stating his recollection of a conversation then had between Agent Kinzer and defendant.

The record discloses that defendant was given full and timely warnings of his constitutional rights as required by the rules laid down in *Miranda.* The trial court did not err in that respect.

Further, at the close of Agent Dallman's testimony, the trial court ordered the Government to furnish statements required by 18 U.S.C.A. § 3500, including a written statement on an FBI "Form 302." This form was a written

statement made by Agents Kinzer, Hogan and Dallman dated May 17, 1966. It contained the description of defendant's arrest on May 12, 1966 and of the conversations concerning which Dallman testified. The conversations took place in an auto in which defendant was being driven from his apartment in Melrose Park, Illinois to the Federal Building in Chicago, Dallman's subsequent dictation of his recollections took place five days later as indicated by the date on the written statement.

Defendant argues he was denied adequate discovery necessary to make a pretrial motion to suppress and determine the application of *Miranda* to statements made by defendant while in custody. This is so, he urges, since the Government had denied it had any statements or admissions subject to production under Rule 16 in answer to defendant's pretrial motion for production. At that time the Government took the position that "written or recorded statements" referred to in Rule 16(a)[1] did not include reports by agents of the Government of their recollections and interpretations of prior conversations with defendant. The Government conceded they were producible pursuant to 18 U.S.C.A. § 3500. This position seems well established. *United States* v. *Elife, D.C.S.D.N.Y.*, 43 F.R.D. 23, 24 (1967), citing *Campbell* v. *United States*, 373 U.S. 487 (1963).

The language of the rule makes pretrial production discretionary rather than mandatory. *United States* v.

[1] The 1966 amendment to Rule 16 provides in part:

"Upon motion of a defendant the Court may order the attorney for the government to permit the defendant to inspect and copy or photograph any relevant (1) written or recorded statements or confessions made by the defendant * * *."

Garcia, D.C.S.D.N.Y., 272 F. Supp. 286, 289 (1967), citing in the same district court *United States* v. *Louis Carreau, Inc.*, 42 F.R.D. 408 (1967).

Production was furnished at trial pursuant to § 3500. We find no prejudice to defendant in the absence of this discovery; hence, no abuse of discretion. There was in point of fact no conflict over the facts to which Agent Dallman testified. We conclude the trial court did not prejudicially err in denying the pretrial discovery in issue.

On October 25, 1966, defendant filed a motion for the "Production, Inspection and Suppression of Evidence All Obtained by Electronic Eavesdropping." The Government's answer to this was a request that the motion be denied on the grounds that it was general and did not specify any particular conversation or communication. On November 18, 1966, the trial court denied such motion. Defendant charges error, relying on *Kolod* v. *United States*, 390 U.S. 136 (1968).

The instant case was tried almost two years before the decision in *Kolod*. No representations were made by the Government at trial or in its pretrial answer to the production motion with respect to the existence of unlawful electronic surveillance. The Government on brief (and in oral argument) now makes the following representation to this court:

> "The Department of Justice has advised the United States Attorney, and the United States Attorney hereby advises this Court that *the defendant was not the subject of, nor were any of his conversations ever monitored by any, unlawful electronic surveillance.*" (Emphasis added.)

Here there is no question presented of the arguable relevancy of eavesdropped information as in *Kolod*.

Defendant calls our attention to the belated acknowledgment by the Department of Justice of electronic eavesdropping upon Salvatore Battaglia, father of defendant, *United States* v. *Battaglia,* 7 Cir., 394 F. 2d 327 (1968); now pending on petition for certiorari.

Another copy of the logs furnished for in camera inspection in the father's case, and found utterly irrelevant to those convictions, *United States* v. *Battaglia,* 394 F. 2d at 328, has been tendered here for filing and to be held in camera. Defendant objects. Since defendant makes argumentative mention of the action in the father's case as somehow having relevance to his claim for reversal here, we now grant the Government's motion. Following submission of this appeal, we now make an in camera inspection of the logs in question to determine their relevance, if any, to the instant prosecution.

A careful in camera inspection of the transmitted material reveals that these conversations were utterly irrelevant and unrelated to the prosecution of the instant defendant. They provide no basis for the reversal of the conviction at hand.

Finally, defendant asserts the Act *as applied to him in this case* is unconstitutional. He contends, *inter alia,* that the United States is engaged in an undeclared war in Viet Nam. In this case, however, defendant was found guilty as charged in Counts I and III of the indictment, *i.e.,* of falsifying certain information to his local draft board and failing to report a change in status. He was not inducted into the Armed Forces of the United States. He was not ordered to report for induction. There is no showing in this record that in 1964, the date of the charged offenses, had defendant been inducted he would

have been sent to Viet Nam. Without conceding that the constitutional question is properly before us for decision on its merits, we find and hold that defendant lacks standing to raise the question. *United States* v. *Mitchell*, D.C.D.Conn., 246 F. Supp. 874, 898 (1965). *Cf. United States* v. *Bolton*, 2 Cir., 192 F. 2d 805, 806 (1951), on a similar question concerning the Korean War.

The judgment of the district court is affirmed.

AFFIRMED.

A true Copy:
Teste:

.....

Clerk of the United States Court of Appeals for the Seventh Circuit.

APPENDIX "B"

In the

United States Court of Appeals

For the Seventh Circuit

SEPTEMBER TERM, 1968 — APRIL SESSION, 1969

No. 16861

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
SAM JOSEPH BATTAGLIA,
Defendant-Appellant.

Appeal from the United States District Court for the Northern District Division.

May 7, 1969

ON PETITION FOR REHEARING

Before HASTINGS, *Senior Circuit Judge*, and KILEY and FAIRCHILD, *Circuit Judges.*

PER CURIAM. On consideration of the petition of Sam Joseph Battaglia, defendant-appellant, for a rehearing of the above case heretofore decided by opinion on March 17, 1969; and it appearing from said petition that, *inter alia,* defendant-appellant relies on *Alderman* v. *United States,* ..... U.S. ....., (March 10, 1969), 37 L.W. 4189, and points to the material which resulted from electronic eavesdropping upon defendant-appellant's *father,* and which we previously examined *in camera.*

We have now re-examined the *in camera* material and find, at stated in our opinion, that not only is this material utterly irrelevant to this prosecution, but *there is no suggestion either within the material or in the representations made concerning it that the overheard conversations were defendant-appellant's own, or took place in his premises,* or even, in fact, took pleace within his presence and hearing. As we read *Alderman* and the related cases, defendant-appellant does not show he is entitled to further relief.

Finding no valid reasons for a rehearing on any grounds advanced in the petition, it is ordered that the same be and now is in all respects denied.

A true Copy:

Teste:

.....

Clerk of the United States Court of Appeals for the Seventh Circuit.

SUPPLEMENTAL APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

BARRY JEROME WALLACE, *Appellant*	)	
v.	)	No. 24744
UNITED STATES OF AMERICA, *Appellee*	)	

MOTION
(Filed July 11, 1967)

The Appellee, the United States of America, by its Attorney, Donald H. Fraser, United States Attorney for the Southern District of Georgia, moves the Court to vacate the judgment of the United States District Court for the Southern District of Georgia, entered on February 15, 1967, and to remand the above-stated case with instructions to dismiss the indictment upon full compliance by defendant with his Local Board's Order to report for and submit to induction, to the United States District Court for the Southern District of Georgia.

As grounds for this motion, the United States of America shows that it is the policy of the Department of Justice not to prosecute violations of the Universal Military Train-

ing and Service Act if such violation was not flagrant and the registrant is willing to submit to the induction procedure.

Donald H. Fraser
United States Attorney
Richard C. Chadwick
Richard C. Chadwick
Assistant United States Attorney
Southern District of Georgia
Attorney for Appellee
P.O. Box 979
Savannah, Georgia

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has on this date served a true copy of the foregoing motion by mailing same to Messrs. Jack Greenberg, 10 Columbus Circle, New York, New York; Howard Moore, Jr., 859½ Hunter Street, N.W., Atlanta Georgia; Thomas F. Walsh, P. O. Box 75, Savannah, Georgia, and Charles Morgan, 5 Forsyth Street, N.W., Atlanta, Georgia, Attorneys for Appellant.

This 7th day of July, 1967.

Richard C. Chadwick
Richard C. Chadwick
Assistant United States Attorney

MEMORANDUM TO SUPPORT MOTION TO VACATE AND REMAND

Statement

Barry Jerome Wallace was convicted of failure to report for induction and of failure to keep his local board advised of his current address in violation of the provisions of the Universal Military Training and Service Act. He

was given the maximum penalty of five years' imprisonment and $10,000 fine on each count, to run consecutively.

Wallace registered in 1962 with Local Board No. 26, Selective Service System, Savannah, Georgia. He listed his address as 512 West 33rd Street, Savannah, Georgia, and gave the name of his mother, residing at the same address, as a person who would always know his address.

In 1964 Wallace became a field worker with the Southern Christian Leadership Conference (SCLC) working out of the Atlanta, Georgia, office of that organization. His duties required him to move from place to place, staying varying periods of time in each locality. He maintained no permanent residence other than at his mother's home to which he would return for brief visits.

On April 21, 1966, the local board mailed an Order to Report for Induction to Wallace. The Order was directed to 512 West 33rd Street, Savannah, Georgia. Wallace reported as ordered and was ready and willing to submit to induction but was found not acceptable for induction under current standards because of a wound in his arm. The Armed Forces Examining and Entrance Station advised the local board the reevaluation of Wallace by the Selective Service System in one month was believed justified. Wallace returned to his mother's residence but left in a few days to continue his field work with SCLC. He instructed his mother to forward any mail from the local board to the Atlanta office of SCLC for transmittal to him in the field.

On June 21, 1966, the local board by letter directed to 512 West 33rd Street, orderd Wallace to report for induction in Savannah on July 7, 1966. Wallace's mother testified at the trial that a piece of mail from the local board was delivered to her home around the end of June,

1966, was forwarded unopened to the Atlanta office of SCLC. Wallace testified that he received the order in Albany, Georgia, on July 10, 1966. He was unable to contact his local board by telephone until July 18, 1966, at which time he was advised to go to the local board in Albany and request a transfer of his file. Wallace stated that he made such a request and was informed that the Albany local board could do nothing until his file was transferred from Savannah. He left his local address with the Albany local board. On July 20, 1966, Local Board No. 26 (Savannah) advised Wallace by written communication that since a request for transfer had not been received, the matter would be referred to the Federal Bureau of Investigation unless he reported to the local board by July 27, 1966.

Local Board No. 26 reported Wallace delinquent to the United States Attorney on August 11, 1966, and the Federal Bureau of Investigation was requested to conduct an investigation on August 18, 1966. Wallace departed for Savannah on August 26th after being advised by his brother that he was being sought. He contacted the local board on August 29, 1966, the first day of the board's regular office hours after his return to Savannah, and was advised that the matter had been turned over to the Federal Bureau of Investigation. The clerk of the local board stated that Wallace again gave 512 West 33rd Street as his current address. Wallace denied this. On the same day the Federal Bureau of Investigation was unable to contact Wallace at that address and learned that his mother had moved a month prior to a new address. The following day Wallace voluntarily appeared at the office of the Federal Bureau of Investigation for interview during which he advised that he had not wilfully failed to report for induction and was then and there willing to submit to induction.

Discussion

The Department of Justice has a responsibility for the control of Government litigation that is not confined to avoidance of legal error but extends to the formulation and implementation of enlightened and prosecutorial policies. The Universal Military Training and Service Act is a comprehensive statute designed to provide an orderly, efficient, and fair procedure for marshalling the available manpower of the country for its defense in times of peril. The purpose of the Act is to provide men for the military establishment.

Where persons have violated the provisions of the statute and are subject to prosecution thereunder, it is the tacit policy of the Department of Justice not to prosecute if the violation was not flagrant and the registrant is willing to submit to the induction procedures. This policy has been adopted because it is more beneficial to the Government to have the registrant serving in the Armed Forces than in a penitentiary.

Wallace's violation does not appear to be flagrant. He reported for induction on May 11, 1966, and apparently would have submitted if he had been found acceptable for service. He has consistently expressed a willingness to serve in the Armed Forces; he so stated to the Federal Bureau of Investigation prior to his indictment; he testified to that effect at his trial; and we have been informed that he is presently willing to submit to induction. Wallaces's failure to keep his local board advised of his current address is based upon the incorrect address he allegedly gave to the clerk on August 29, 1966. The incident, if true, seems of little consequence not only because the matter was then out of the hands of the local board by

referral to the United States Attorney, but also because Wallace made his whereabouts known by his voluntary appearance at the Federal Bureau of Investigation office on the following day.

Because there may be some doubt as to the actual existence of the necessary scienter and in view of the above-indicated policy, the Department would not have authorized this prosecution if the entire factual situation had been known, unless the defendant had refused to be inducted after being given a further opportunity to submit.

We know of no obstacles to the Court's granting a motion to dismiss an indictment pending appeal from a judgment of conviction. The outstanding judgment must, of course, first be vacated in order to dismiss the indictment, but since the judgment is before this Court on direct review, it has not yet become final and is within the power of this Court under the provisions of Section 2106, Title 28, United States Code. *Petite* v. *United States*, 361 U.S. 529.

Conclusion

For the foregoing resaons it is respectfully submitted that this motion should be granted and that an order should be entered vacating the judgment of the district court and remanding the case to the district court with instructions to dismiss the indictment upon full compliance by the defendant with his order to submit to induction.

IN THE

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT
No. 24744

BARRY JEROME WALLACE,
Appellant,
v.
UNITED STATES OF AMERICA,
Appellee.

APPELLANT'S RESPONSE TO THE MOTION OF THE UNITED STATES TO VACATE AND REMAND
(Filed July 18, 1967)

Appellant has been informed by his undersigned counsel of the government's motion to vacate the judgment herein and to remand the above-stated case with instructions to dismiss the indictment upon full compliance by appellant with his Selective Service Board's orders to report for and submit to induction. Appellant has informed undersigned counsel of his willingness to report for and submit to induction and concurs in the government's request for relief.

This said, appellant's counsel feels constrained to add a few words. Without rehashing the record or the briefs we have filed, it is clear that this case involves a miscarriage of justice. The government's memorandum concedes as much, for it states that appellant's case fits within a class the Department of Justice does not prosecute as a matter of policy. Thus, even if the worst face possible be put on appellant's conduct it should not have resulted in criminal prosecution much less four months imprisonment

for failure to raise excessive bail. And, we continue to believe that the record shows by convincing evidence that appellant's conduct was totally innocent; that he is entitle to reversal of the judgment as a matter of right.

We review these matters briefly because there is the risk, inherent in any confession of error by the government, that future associates, employers and acquaintances of appellant will misinterpret this court's vacation of the judgment and see in it the reflection of some technical failure by the United States rather than the facts of appellant's ill-starred attempts to satisfy his military obligation. We suggest, with all deference, that some articulation of the facts and circumstances of appellant's conviction and sentence will minimize the potential for this sort of mischief affecting this young man's future.

Respectfully submitted,

Michael Meltsner
Jack Greenberg
Charles Stephen Ralston
10 Columbus Circle
New York, New York
Howard Moore, Jr.
859½ Hunter Street, N.W.
Atlanta, Georgia
Charles Morgan, Jr.
5 Forsyth Street, N.W.
Atlanta, Georgia
Thomas F. Walsh
P. O. Box 75
Savannah, Georgia
Attorneys for Appellant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has on this ..... day of July, 1967 served a true copy of the foregoing Response by depositing same in the United States mail, air mail, postage prepaid, addressed to Honorable Donald H. Fraser, United States Attorney, P. O. Box 979, Savannah, Georgia and Honorable Ramsey Clark, Attorney General, Department of Justice, Washington, D. C.

.....

Attorney for Appellant

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 24744

BARRY JEROME WALLACE,

Appellant,

versus

UNITED STATES OF AMERICA,

Appellee.

— — — — —

Appeal from the United States District Court for the Southern District of Georgia

— — — — —

Before BROWN, Chief Judge, JONES and GOLDBERG, Circuit Judges.

BY THE COURT:

On consideration of the motion filed by appellee, in the above styled and numbered cause, to vacate the judgment of the District Court and remand with instructions to dismiss the indictment against appellant, and of appellant's response filed in opposition thereto,

IT IS ORDERED that appellee's motion to vacate the judgment and remand with instructions to dismiss the indictment be hereby GRANTED.

FEDERAL BUREAU OF INVESTIGATION

Date 5/17/66

SAM JOSEPH BATTAGLIA, Apartment 8, 7321 West Fullerton Avenue, was arrested at this address at approximately 8:00 p.m. He was immediately advised of the nature of the charge against him and the identity of the arresting Agents. He was advised that he did not have to make a statement by SA EDWARD KINZER, JR.; that any statement he did make could be used against him in a court of law and that he had the right to consult an attorney or anyone else prior to making a statement. He was further advised that if he could not afford to hire an attorney, the court would appoint one for him. He furnished the following information:

He stated that he believed that it was correct that he had not advised his Local Selective Service Board that he was divorced from his first wife. He noted, however, that he was sent a form by Selective Service in March, 1966, at which time he informed his Board that he was remarried.

In reference to his divorce, he mentioned that he separated from his wife around November, 1963, at which time he went to live with his parents in their home in Oak Park, Illinois. He subsequently moved on a number of occasions and is currently residing at this address with his new wife, KARI DE ORIO BATTAGLIA, whom he married in March of this year. He recalled that his divorce was final in either late November or early December, 1964.

At that time the court awarded his wife $50.00 a week for the support of their two children.

During the entire year 1965, he was unemployed, but since the first of this year has been employed as a coin machine collector by the Queen Wash Speed Dry Service, which company has washing machines and drying machines placed in a number of apartments in and around Chicago. It is his job to collect the coins from these machines for this company. This company is operated by JOSEPH AMABILE, who also runs the El Morrocco Night Club in Northlake, Illinois. During 1965, since he was unemployed, his father, SAM BATTAGLIA, paid the child support payments to his former wife, ELAINE. Since he has been employed this year, he is now making these payments.

For a few months during 1964, he stayed at the O'Hare Kitchenettes West on Mannheim Road south of O'Hare Airport. While staying at this motel, he may have used the name SAM JOSEPH.

Concerning his employment during the year 1964, he recalled that one LARRY ROSENBERG hired him for Mayfair Acceptance Corporation where he worked for a number of months during that year. He did not recall ever having worked for an organization known as Dearborn Advertising.

Regarding his Selective Service status, he related that he had never attempted to enlist in the military service and since registering for Selective Service had not been called by his Local Board. He felt that he had no physical or mental handicaps which would keep him from serving in the military service and should he be required to go, he would be willing.

Concerning his children by his first marriage, he related that their names are ANGELA, age 5, and MARIA, age 3. They both reside with their mother, ELAINE, at 1440 North First Avenue, Melrose Park, Illinois, but occasionally visit with him.

He advised that living with his parents in Oak Park is one MARGARET SALVATORE, whom he refers to as his aunt. She is the sister of ROCCO SALVATORE. He did not know, however, what their exact relationship was to his family but did know that it was on his mother's side of the family that they were related. He stated MARGARET SALVATORE was not employed to his knowledge.

The following description of the subject was obtained from interview and observation:

Name—SAM JOSEPH BATTAGLIA,
aka Sam Joseph
Race—White
Sex—Male
Born—February 26, 1944, Chicago, Illinois

On 5/12/66 at Elmwood Park, Illinois File #CG 25-45742
by SAs Edward Kinzer, Jr.; Raymond F.
Hogan and John E. Dallman/cms

Date dictated 5/17/66